

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
EVANSVILLE DIVISION

KRISTEN FIFER, )  
                    )  
Plaintiff,       )  
                    )  
v.                )     CAUSE NO:  
                    )  
LOS PATRONES OF )  
EVANSVILLE, LLC   )  
d/b/a EL PATRON RESTAURANT )  
                    )  
Defendant.       )

**COMPLAINT AND DEMAND FOR JURY TRIAL**

**I. NATURE OF THE CASE**

1. This is an action brought by Plaintiff, Kristen Fifer ("Fifer"), by counsel, against Defendant, Los Patrones of Evansville, LLC d/b/a El Patron Restaurant, ("Defendant"), for violating Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*

**II. PARTIES**

2. Fifer is a resident of the United States and the State of Indiana.  
3. Defendant is a restaurant that maintains offices and conducts business in the Southern District of Indiana.

**III. JURISDICTION AND VENUE**

4. Jurisdiction is conferred on this Court over the subject matter of this litigation pursuant to 28 U.S.C. §1331 and 42 U.S.C. §2000e-5(f)(3).

5. Defendant is an “employer” as that term is defined 42 U.S.C. §2000e(b).
6. At all times relevant to this action, Fifer was an “employee” as that term is defined by 42 U.S.C. §2000e(f).
7. Fifer exhausted her administrative remedies by timely filing a Charge of Discrimination against Defendant with the Equal Employment Opportunity Commission and files this complaint within ninety (90) days of receipt of her Notice of Right to Sue.

8. A substantial part of the events, transactions, and occurrences concerning this case arose in the geographical environs of the Southern District of Indiana; therefore, venue is proper in this Court.

#### **IV. FACTUAL ALLEGATIONS**

9. Fifer, who is a female, was hired by the Defendant in or about December 2018 and worked as a Server.

10. At all times relevant, Fifer met or exceeded Defendant’s legitimate performance expectations. Defendant, at all times relevant, had no anti-harassment policy with preventative measures of how to recognize and report sexual harassment.

11. Defendant’s Owner, Jose (Joseph) Ramirez (“Ramirez”), also owns El Vaquero of Mt. Vernon, LLC d/b/a El Vaquero.

12. During her employment, Fifer was subjected to continued and increasing harassment from fellow employee, Porfirio “Lobo” Reyes (“Reyes”). Reyes sent text messages to Fifer that were sexually explicit and despite Fifer informing Reyes that she

would not engage in any relationship with him and asking him to stop, Reyes continued to send explicit messages.

13. Reyes' harassment was severe and pervasive and created a hostile work environment for Fifer. Further, Reyes attempted to kiss Fifer while at work and made other sexual advances towards her.

14. Upon information and belief, Reyes had previously sexually harassed another female employee which was known to the Defendant. Despite this, Reyes was not terminated.

15. Beginning in or about January 2019, Fifer complained about Reyes' text messages to her supervisor, Rudy Garibaldi, Restaurant Manager. Rudy asked Fifer to not go to the restaurant's owner, Jose (Joseph) Ramirez ("Ramirez"). Believing that Rudy would resolve the issue, Fifer followed Rudy's instruction. Despite this, the harassment continued and Reyes began treating Fifer poorly.

16. In or about June 2019, when the harassment had not stopped and Rudy had failed to correct the issue, Fifer complained to Ramirez and reported Reyes' continually harassing behavior.

17. Following her report to Ramirez, Fifer was transferred to Defendant's El Vaquero restaurant in Mt. Vernon against her wishes. Fifer was told that the restaurant was understaffed, but upon her arrival, she founds this to be untrue and worked as a Cashier. There, Fifer earned less money as she had less hours assigned to her.

18. Upon information and belief, Reyes was terminated by the Defendant in late July or early August 2019.

**V. LEGAL ALLEGATIONS**

**COUNT I - SEXUAL HARASSMENT**

19. Paragraphs one (1) through eighteen (18) of Fifer's Complaint are hereby incorporated.

20. Defendant violated Fifer's rights and discriminated against her based on her sex by subjecting her to a hostile work environment, sexual harassment, failing to remediate claims of sexual harassment, and subjecting her to adverse action by transferring her employment.

21. Defendant's actions were intentional, willful and in reckless disregard of Fifer's rights as protected by Title VII.

22. Fifer has suffered and continues to suffer harm as a result of Defendant's unlawful actions.

**COUNT II -RETALIATION**

23. Paragraphs one (1) through twenty-two (22) of Fifer's Complaint are hereby incorporated.

24. Defendant violated Fifer's rights by retaliating against her for engaging in a protected activity.

25. Defendant's actions were intentional, willful and in reckless disregard of Fifer's rights as protected by Title VII.

26. Fifer has suffered and continues to suffer harm as a result of Defendant's unlawful actions.

**VI. REQUESTED RELIEF**

WHEREFORE, Plaintiff, Kristen Fifer, by counsel, respectfully requests that this Court find for Plaintiff and:

1. Reinstate Plaintiff to the position, salary and seniority level she would have enjoyed but for Defendant's unlawful employment actions, or award her front pay in lieu thereof;
2. Pay Plaintiff's lost wages and benefits;
3. Pay to Plaintiff compensatory damages, damages for emotional distress and payment of uncovered medical bills and/or insurance premiums;
4. Pay to Plaintiff punitive damages;
5. Pay to Plaintiff pre- and post-judgment interest;
6. Pay Plaintiff's costs and attorney fees incurred in litigating this action; and,
7. Provide any further equitable relief this Court sees fit to grant.

Respectfully submitted

/s/ Lauren E. Berger\_\_\_\_\_  
Lauren E. Berger, Atty. No. 29826-19  
BIESECKER DUTKANYCH & MACER, LLC  
411 Main Street  
Evansville, IN 47708  
Telephone: (812) 424-1000  
Facsimile: (812) 424-1005  
Email: [lberger@bdlegal.com](mailto:lberger@bdlegal.com)

*Attorneys for Plaintiff, Kristen Fifer*

**DEMAND FOR JURY TRIAL**

The Plaintiff, Kristen Fifer, by counsel, respectfully requests a jury trial for all issues deemed triable by jury.

Respectfully submitted,

/s/ Lauren E. Berger

Lauren E. Berger, Atty. No. 29826-19  
BIESECKER DUTKANYCH & MACER, LLC  
411 Main Street  
Evansville, IN 47708  
Telephone: (812) 424-1000  
Facsimile: (812) 424-1005  
Email: [lberger@bdlegal.com](mailto:lberger@bdlegal.com)

*Attorneys for Plaintiff, Kristen Fifer*